

INTRODUCTION

An exemption is a privilege granted by the Legislature to certain classes of persons or property. An exemption reduces by certain amounts the tax owed.

Unlike an exemption which discharges a tax obligation, Clause 41A permits a senior taxpayer to *delay payment* of property taxes which ultimately must be paid to the community upon the death of the taxpayer or sale of the property. Under this statute, which is in effect in every city and town in the Commonwealth, a senior can use resources which otherwise would go to pay real estate taxes to defray living expenses. A taxpayer who already receives a personal exemption (*e.g.*, for a senior, disabled veteran, blind person or surviving spouse) may defer the balance of the reduced tax.

A qualified applicant must enter into a written tax deferral and recovery agreement with the community's assessors who record a statement at the Registry of Deeds to continue the lien that exists on the property by law to secure payment. Joint owners, remaindermen and/or mortgagees must give prior written approval.

APPLICATIONS

Applications must be filed annually with the local assessors in the city or town where the property is located on or before December 15th, or three months after the actual tax bills are mailed, whichever is later. Filing an application does not entitle the applicant to a delay in tax payment.

ELIGIBILITY REQUIREMENTS

An applicant must satisfy tests relating to age, domicile, ownership and occupancy, and gross receipts. All eligibility requirements must be met as of July 1 of the tax year.

Age -- An applicant must be at least 65 years of age.

Domicile -- An applicant must have had a domicile or legal home in Massachusetts for ten consecutive years before the application. The applicant must also be domiciled in the property that is the subject of the application.

Ownership and Occupancy -- An applicant must have owned and occupied the subject property or other real property in the Commonwealth as a domicile for at least 5 years. The years do not have to be consecutive or for the same location.

The applicant may own the property jointly with his spouse or jointly or as a tenant in common with a person not his spouse.

A surviving spouse who qualifies may continue to defer taxes but must enter into a new tax deferral and recovery agreement. A surviving spouse who inherits the property must have occupied it or other real property in Massachusetts as a domicile for 5 years. Any additional taxes plus interest deferred by the surviving spouse together with the amounts previously deferred and unpaid may not exceed 50% of the surviving spouse's proportional share of the fair cash value of the property.

The holder of a life estate satisfies the ownership requirement for a tax deferral.

If the domicile is held in a trust, a person can only satisfy the ownership interest if he:

1. Is a trustee or co-trustee of that trust, and
2. Possesses a sufficient beneficial interest in the domicile through that trust. (Splitting the interest between multiple trusts does not qualify.)

Gross Receipts -- An applicant's gross receipts from all sources cannot exceed \$20,000. If married, combined gross receipts cannot exceed \$20,000. Ordinary business expenses and losses may be deducted but not personal or family expenses. By local option, upon acceptance by the city council, town council or town meeting, the amount of qualifying gross receipts can be increased to an amount up to \$40,000.

DEFERRAL AMOUNT

A taxpayer who qualifies may defer payment of all or a portion of the taxes each year, provided the deferred taxes and accrued interest do not exceed 50 percent of the applicant's proportional share of the fair cash value of the property. Interest on deferred taxes accrues at 8%, or a lower rate adopted locally by the city council, town council or town meeting before July 1 of the tax year.

DOCUMENTATION

An applicant for deferral must furnish whatever information is reasonably necessary to determine eligibility under the terms of the statute. For example, the assessors may request:

1. Birth certificate.
2. Evidence of ownership, domicile and occupancy.
3. Income tax returns.

PAYMENT

The payment of taxes and accrued interest is due upon the sale of the property or the death of the taxpayer, if the surviving spouse does not continue to defer. As of that critical date, the interest rate goes up to 16 percent. If the deferred amount remains unpaid 6 months after the property is sold or taxpayer's death, the treasurer may seek to foreclose the lien on the property.

**FOR FURTHER INFORMATION, CONTACT
YOUR LOCAL BOARD OF ASSESSORS, OR
CALL:**

**DEPARTMENT OF REVENUE
DIVISION OF LOCAL SERVICES
BUREAU OF MUNICIPAL FINANCE LAW**

(617) 626-2400

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TAXPAYER'S GUIDE TO REAL ESTATE TAX DEFERRAL IN MASSACHUSETTS

CLAUSE 41A

Property Tax Deferral

(65 years of age or older)



**Massachusetts Department of Revenue
Division of Local Services
Bureau of Municipal Finance Law**